

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

Wells Fargo Bank, N.A.	:
Plaintiff,	:
	:
v.	: File No. 2:07 CV 169
	:
Howard M. Sinnott, II,	:
Janet M. Sinnott, United States	:
Department of Justice, and	:
Occupants residing at 20 Monument	:
Ave., Bennington, Vermont,	:
Defendants.	:

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed August 17, 2009. Defendant United States Department of Justice and Defendants Howard Sinnott, II and Janet M. Sinnott's objections were filed September 2, 2009.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); *Perez-Rubio v. Wyckoff*, 718 F.Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id.*

After careful review of the file, the Magistrate Judge's Report and Recommendation and the objections, this Court ADOPTS the Magistrate Judge's recommendation in full and modifies the report with respect to one finding. Given that the

Justice Department did engage in settlement negotiations with the Sinnotts, the finding that the Justice Department, a secondary lienholder acting on behalf of the individuals who sustained losses in the criminal conduct, "would not agree to any different arrangements" concerning the property is modified as follows: It also appears from the evidence that the Justice Department, a secondary lienholder acting on behalf of the individuals who sustained losses in the criminal conduct, and the Sinnotts were not able to agree upon alternative financing arrangements.

It is hereby ordered that the Wells Fargo's motion for summary judgment is **GRANTED** (Doc. 75), and the Sinnotts' motion for summary judgment is **DENIED** (Doc. 71).

Dated at Burlington, in the District of Vermont, this 25th day of September, 2009.

/s/ William K. Sessions III
William K. Sessions III
Chief Judge
U.S. District Court